

**JUDGE SWAIN**

07 CV 10939

CHALOS, O'CONNOR & DUFFY, LLP  
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Owen F. Duffy (OD-3144)  
George E. Murray (GM-4172)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SCANDA NAVIGATION VALLETTA,

Plaintiff,

07 CV \_\_\_\_\_( )

v.

HEAVENS GATE SHIPPING INC.,

Defendant.

**ATTORNEY'S AFFIDAVIT  
THAT DEFENDANT  
CANNOT BE FOUND  
WITHIN THE DISTRICT**

STATE OF NEW YORK :

: SS.

COUNTY OF NASSAU :

-----X

This affidavit is executed by the attorney for the Plaintiff, SCANDA NAVIGATION VALLETTA, (hereinafter "SCANDA"), in order to secure the issuance of a Summons and Process of Attachment and Garnishment in the above-entitled, *in personam*, Admiralty cause.

Owen F. Duffy, being first duly sworn, deposes and states:

1. I am a partner of the firm of Chalos, O'Connor & Duffy LLP representing Plaintiff, SCANDA, in this case.

2. I have personally inquired or have directed inquiries into the presence of Defendant HEAVENS GATE SHIPPING INC. in this District.

3. I have personally checked with the office of the Secretary of State of the State of New York, using the Secretary of State's Division of Corporations database, and I have determined that, as of November 30, 2007, the Defendant HEAVENS GATE SHIPPING INC. is not incorporated pursuant to the laws of New York, is not qualified to conduct business within the State of New York and has not nominated agents for the service of process within New York because the Secretary of State of the State of New York has no records for the Defendant HEAVENS GATE SHIPPING INC.

4. I have inquired of Verizon Telephone Company whether the Defendant HEAVENS GATE SHIPPING INC. can be located within this District. The Verizon Telephone Company has advised me that the Defendant does not have any telephone number listings within this District.

5. I have further consulted with several other telephone directories on the internet, and I have found no telephone listing or address for the Defendant HEAVENS GATE SHIPPING INC. within this District.

6. I have further made several searches on the internet with various search engines and maritime websites, and I have found no indication that the Defendant HEAVENS GATE SHIPPING INC. can be found within this District.

7. In that I have been able to determine that the Defendant HEAVENS GATE SHIPPING INC. is not based in the United States of America and that I have found no indication that the Defendant HEAVENS GATE SHIPPING INC. can be found within this District, I have formed a good faith belief that the Defendant HEAVENS GATE SHIPPING INC. does not have sufficient contacts or business activities within this District to defeat maritime attachment under Rule B of the Supplemental Rules for Admiralty and Maritime Claims as set forth in the Federal Rules of Civil Procedure.

8. It is my belief, based upon my own investigation that the Defendant HEAVENS GATE SHIPPING INC. cannot be found within this District for the purposes of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

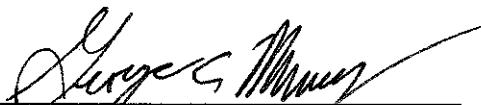
Dated: Port Washington, New York  
November 30, 2007

By:

CHALOS, O'CONNOR & DUFFY, LLP  
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Port Washington, New York 11050  
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Subscribed and sworn to before me this  
November 30, 2007

  
\_\_\_\_\_  
Notary Public, State of New York  
**GEORGE E. MURRAY**  
Notary Public, State of New York  
No. 02MU6108120  
Qualified in New York County  
Commission Expires April 12, 2008